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March 5, 2012

Andrew Duchovnay, Esq.  
U. S. Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029

Re: PII [REDACTED]  
Administrative Order  
CW-03-2012-0024DN

Dear Mr. Duchovnay:

On June 16, 2011 Ms. Ashley Toy visited PII [REDACTED] poultry-broiler operation located near Moorefield, West Virginia, to perform an inspection. On November 14, 2011, a *Finding of Violation and Order for Compliance* were issued by Mr. Jon M. Capacasa to Mr. PII [REDACTED]. The Conclusions of Law and Findings of Violation of the Order state that Mr. PII [REDACTED] is in violation of Section 301 of the Clean Water Act for operating a point source that discharges to a jurisdictional water of the United States without having obtained a National Pollutant Discharge Elimination System (NPDES) permit. Mr. Capacasa ordered Mr. PII [REDACTED] to submit a complete NPDES application, including a site-specific nutrient management plan (NMP), to the West Virginia Department of Environmental Protection within 90 days. (This period of time was later extended to March 5, 2012). He was also ordered to advise EPA within ten days of receipt of the order whether she would comply with the order. Mr. PII [REDACTED] believes he wrote to Ms. Toy within ten days and said that he would apply for a permit.

Mr. PII [REDACTED] has reconsidered the decision to obtain a NPDES permit and does not intend to apply for such a permit at this time. This decision was based upon our belief that there is no discharge of process wastewater from the poultry-broiler production areas at his farm. All operations, as well as chicken litter and raw material storage, are under roof and are not exposed to storm water. Care is taken to clean up material that might spill out during litter transfer operations, or any other activity that might result in material being left on the ground outside of these areas. The incidental presence of insignificant amounts of chicken litter, feed, or similar material on the ground in the barnyard at a farm does not give rise to a regulated discharge. Instead, the only possible discharge from such areas would be unregulated agricultural storm water.

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Andrew Duchovnay, Esq.

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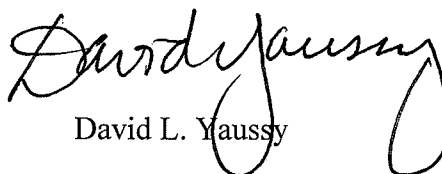
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Mr. PII reconsideration is also the result of his decision to make changes to his poultry operations to eliminate discharges to jurisdictional waters. Runoff from the east of his poultry houses will be routed around the southern end of his current storage pond, which will eliminate most of the flow that ends up in his storage pond. Mr. PII also intends to redirect water from his roofs and transport it outside the poultry house area, through gutters and drains that do not allow it to come into contact with litter. That will greatly reduce the runoff going to the pond, such that infiltration, evaporation and land application should eliminate all discharges from the pond. Berming and other appropriate site changes should eliminate any other overland discharge, by point source or sheet flow, to jurisdictional waters.

Mr. PII takes seriously his obligations to the environment. His operations have been nominated for environmental stewardship awards, which is evidence of his commitment to responsible operations. He has committed to making changes to his operations that should eliminate runoff to jurisdictional waters. If there are other reasonable suggestions you or the West Virginia Department of Environmental Protection have for improving his farm's operations he would be glad to discuss them with you. However, at this time he respectfully declines to apply for a NPDES permit for his poultry-broiler operations.

If you would like to discuss this matter further, please contact me.

Sincerely yours,



David L. Yaussey

DLY:shb

cc: Mr. PII